

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

JOHNNY JOE MOLINA, JR.,
Institutional ID No. 118126

Plaintiff,

v.

No. 5:20-CV-081-H

WELL PATH, *et al.*,

Defendants.

ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation that this case be dismissed for failure to state a claim. Plaintiff filed objections. (Dkt. No. 21.) The Court conducted a de novo review of the relevant portions of the record and the Magistrate Judge's report. As explained below, Plaintiff's objections are overruled, and the Court accepts and adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

Plaintiff asserts claims against three defendants for alleged failure to provide adequate medical care. The Magistrate Judge thoroughly analyzed Plaintiff's claims and recommended that they be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B), because Plaintiff does not meet the test for establishing deliberate indifference to his serious medical needs. Plaintiff filed objections. (Dkt. No. 21.) Although he titled the document "Opposition," the substance of Plaintiff's objections support the Magistrate Judge's conclusion. First, Plaintiff speculates that had he received MRIs sooner, his arm would have healed correctly. Second, he continues to complain about the way his shoulder was

examined by the medical technician. Plaintiff's objections are overruled. In short, as discussed more fully by the Magistrate Judge, Plaintiff's disagreement with the course of care does not raise a constitutional claim. For the reasons discussed by the Magistrate Judge, plaintiff has not stated a claim for deliberate indifference.

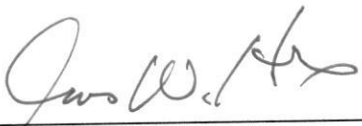
The Court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge, and therefore orders that Plaintiff's complaint and all claims alleged within it are dismissed with prejudice under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A for failure to state a claim.

This dismissal will count as a qualifying dismissal or "strike" under 28 U.S.C. § 1915 and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

All relief not expressly granted and any pending motions are denied.

Judgment will be entered accordingly.

Dated November 15, 2021.



JAMES WESLEY HENDRIX
United States District Judge